HONOURABLE SMT. JUSTICE T.MEENA KUMARI
&
HONOURABLE SRI JUSTICE G. CHANDRAIAH

WRIT PETITION No:21596 OF 2007

Dated: 11.10.2007

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Between:

1. The Government of A.P.,
   Represented by its Secretary,
   Finance Department, A.P.
   Secretariat, Hyderabad

..**Petitioner**

And

1. Racherla Upender and others.

..Respondents

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HONOURABLE SMT. JUSTICE T.MEENA KUMARI
&

HONOURABLE SRI JUSTICE G. CHANDRAIAH

WRIT PETITION No:21596 OF 2007

ORDER: (per Hon'ble Smt. Justice T. Meena Kumari)

The present writ petition has been filed challenging the order of the Tribunal dated 13.7.2007 in O.A.No.6680 of 2003.

The 1st respondent herein is the applicant before the tribunal. He filed the above O.A. seeking to call for records relating to the issuance of proceedings Lr.No.07697/164/N5/2000, dated 17.4.2000 rejecting the claim of the applicant to revise and refix the pension and pensionary benefits and to declare the said proceedings as illegal and arbitrary and consequently, to direct the respondents to revise and refix the pension and pensionary benefits by considering the date of initial appointment i.e., 17.11.1963 on the ground that he retired as Bill Collector on 10.6.1994 on medical grounds and his pension was fixed by taking into account the service from 1.1.1980 and his service as Full Time Contingent Employee prior to that was not taken into account and his representations were not properly considered.

The tribunal having observed that the material placed before it goes to show that the applicant was Full Time Contingent Employee from 1.4.1974 itself and there is no material prior to that period and in all probability, he must have been Full Time Contingent Employee from 1.4.1974 and so, the applicant is entitled to the benefits of G.O.Ms.No.156 and therefore, the service of the applicant from 1.4.1974 has to be taken into account but not from 1.1.1980 for the purpose of fixing the pension and therefore, the proceedings impugned

are liable to be set aside, allowed the O.A. and directed the respondents to refix the pension of the applicant by taking into account his service from 1.4.1974 and pay all arrears together with interest at 9% p.a., within 8 weeks from the date of receipt of that order. Having aggrieved by the same, the present writ petition is filed.

Heard the learned Government Pleader and perused the material available on record.

Before going into the merits of the case, it is relevant to note that there is no dispute as to the Services of the applicant from the year 1974 onwards. But according to the respondent-Government, the pay of the applicant was fixed in the time scale in pursuance of G.O.Ms.No.38, dated 1.2.1980 on the ground that the service register is not clear to conclude as to whether the applicant was full time contingent employee or not. It is also the contention of the learned G.P. that as per G.O.Ms.No.156, dated 29.4.1983, the service of Full Time Contingent employees, who are absorbed in Government Service against the post of Full Time Contingent employees converted to the post of Last Grade Posts in accordance with the orders issued under G.O.Ms.No.38 and G.O.Ms.No.9 be counted for the purpose of pension. However, the applicant is not entitled to the benefit conferred under G.O.Ms.No.156 on the ground that he is not a full time contingent employee. Except making bald contentions that the applicant is not a Full Time Contingent Employee by the time he was absorbed into regular service, nothing is placed before the Court to sustain the said contention.

A perusal of the impugned order makes it clear that the

applicant was a Full Time Contingent employee from 1.4.1974 and therefore, the service of the applicant from 1.4.1974 has to be taken into consideration but not from 1.1.1980 for the purpose of fixing pension.

In the present facts and circumstances of the case coupled with the material available on record and in view of the service of the applicant from the year 1974 onwards, we have no hesitation to hold that the tribunal is justified in passing the order impugned and the order impugned does not suffer from any illegality or irregularity. We see no merits in the writ petition and the same is liable to be dismissed.

Accordingly, the Writ Petition is dismissed. No order as to costs.

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Justice T. Meena Kumari

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Justice G. Chandraiah

Date: 11th October, 2007
Nn/Gurc.

HONOURABLE SMT. JUSTICE T.MEENA KUMARI
&
HONOURABLE SRI JUSTICE G. CHANDRAIAH

WRIT PETITION No:21596 OF 2007

(Order delivered by the Hon'ble Smt. Justice T. Meena Kumari)

11/10/2007

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